

**FLATHEAD COUNTY BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
AUGUST 5, 2008**

**CALL TO  
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Tony Sagami, Craig Wagner, Gina Klempel, Scott Hollinger and Mark Hash. Andrew Hagemeyer, Alex Hogle, and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 56 people in the audience.

*Klempel disclosed that her husband owns two gravel pits; however, she has no personal or financial interest in either the Street or Tutvedt application.*

**APPROVAL OF  
MINUTES**

Sagami made a motion seconded by Wagner to approve the May 6, 2008 meeting minutes.

The motion was carried by quorum.

**PUBLIC REVIEW**

Hollinger reviewed the public hearing process.

**PUBLIC  
COMMENT  
(not related to  
agenda items)**

None.

**JOSH JOSEPH  
(FCU 07-17)**

A request by Josh Joseph to amend a condition on an existing Conditional Use Permit (FCU-07-17). The applicant is requesting to have condition #14 deleted as it requires them to build a sidewalk across the front portion of the property along Spruce Road. Due to physical constraints this condition is not feasible.

**STAFF REPORT**

Andrew Hagemeyer reviewed condition #14 of staff report FCU 07-17 for the Board.

**APPLICANT**

Dick Smith, of Smith Surveying, presented a map which showed where the proposed sidewalk would go and why it wouldn't fit.

Robert Smith, of A2Z Engineering, said he would be happy to answer any questions from a design prospective.

**PUBLIC  
COMMENT**

None.

**BOARD  
DISCUSSION**

Klempel thinks it's prudent to have properties surveyed prior to applying for a conditional use permit to avoid problems.

Sagami asked if it was unusual to get a survey before an application is submitted.

Hagemeier said a survey is not required before the application is submitted. Staff may request a survey be done if an application needs one done. He suggested condition #14 be deleted as the sidewalk is neither possible nor feasible.

**MOTION**

Hash made a motion seconded by Wagner to adopt staff report FCU 07-17 as findings of fact with amended conditions.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOAD LLC  
(FCU 08-10)**

A request by MOAD, LLC, Jim McIntyre and Tim Murphy, for a Conditional Use Permit to operate a tavern/casino in the Willow Glen, B-2 (General Business) Zoning District. The property is located at 1254 Highway 2 East.

**STAFF REPORT**

Alex Hogle reviewed staff report FCU 08-10 for the board.

**BOARD  
QUESTIONS**

Sagami asked if reducing the size of the landscape island would encroach on the utility easements being paved over and wondered if that would be problem.

Hogle didn't think so. If any problems did arise, it would be up to the applicant to pay to have it corrected.

Wagner asked if this vestibule could be modified to meet the setback requirements.

Hogle believes they could come up with a plan to make it work if necessary.

Hollinger asked if there was a particular point about the hours of operation.

Hogle said he included them because it was one of the conditional use criteria.

<b>APPLICANT</b>	Jim McIntyre concurred with staff's findings. He asked for the deceleration lane to be no different than those of other businesses around.
<b>AGENCIES</b>	None.
<b>PUBLIC COMMENT</b>	None.
<b>BOARD DISCUSSION</b>	Hollinger asked if there were any clarifications from the staff.
<b>STAFF REBUTTAL</b>	Hogle stated there were none except to modify sections on approach permits.
<b>SUBSIDIARY MOTION AMEND F.O.F.</b>	Wagner made a motion seconded by Sagami to amend recommended finding-of-fact #9 to read: <i>The application includes copies of approved approach permits from MDT for the two existing approaches onto US Highway 2. Ingress/egress at times of peak highway traffic may contribute to problematic traffic situations and/or traffic accidents because there is not a right turn/deceleration lane on US Highway 2.</i>
<b>AMEND F.O.F. ROLL CALL</b>	On a roll call vote the motion passed unanimously.
<b>BOARD DISCUSSION</b>	None.
<b>MOTION</b>	Wagner made a motion seconded by Klempel to adopt the findings-of-fact as amended.
<b>ROLL CALL</b>	On a roll call vote the motion passed unanimously.
<b>BOARD DISCUSSION</b>	None.

**ROBIN & JOYCE  
STREET  
(FCU 08-09)**

A request by Robin C. and Joyce A. Street, to amend an existing Conditional Use Permit (FCU-07-03) that allowed them to extract gravel and sand from a 15.2 acre site within the Evergreen, AG-80 (Agricultural, 80 acres) Zoning District. The amendment would be to delete condition #19, (The operation is limited to the extraction of gravel), of the final approved conditions and substitute it with the following language: The operation will be limited to extraction, crushing and stockpiling of gravel and sand. All other conditions will remain in effect. The property is located at 1414 Rose Crossing.

*Hash stepped down for this agenda item as well as the Tutvedt application due to conflict of interest. He was excused for the remainder of the meeting.*

**STAFF REPORT**

Jeff Harris reviewed staff report FCU 08-09 for the board.

**BOARD  
QUESTIONS**

Hollinger asked if the 120-day timeframe was requested by Mr. Street or the Planning Office.

Harris said the board should ask Mr. Street, but he thought it was Mr. Streets suggestion.

Klempel asked are we adding “washing and stockpiling” to the findings-of-fact.

Harris said that yes we are.

**APPLICANT**

Robin Street said he needs the 120-day time frame because some things have changed from his original permit and he needs that amount of time to change them. One thing he wants to do is add a kids fishing pond. He will be getting approval from Fish and Game.

Hollinger asked if the 120 days was going to be in one stretch or drawn out.

Street thought it could be broken down into two 60-day sessions.

**PUBLIC  
COMMENT**

Al Schellinger, 250 Trek Rd in Columbia Falls, is in favor of this application.

Gary Krueger, 805 Church Drive, spoke in favor of this project and thinks it's admirable. He asked the board not to place a timeline on the project and to be lenient.

**APPLICANT  
REBUTTAL**

None.

**BOARD  
DISCUSSION**

Sagami said the county is very lucky to have a man like Mr. Street.

**MOTION**

Sagami made a motion seconded by Wagner to adopt staff report FCU 08-09 as findings-of-fact.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**TUTVEDT  
FAMILY  
PARTNERSHIP  
(FCU 08-07)**

A request by Tutvedt Family Partnership for a Conditional Use Permit to allow for gravel extraction within the West Valley Zoning District. The property is located at 1610 Church Drive and can further be described as Tracts 1 and 4 (N ½ of Section 16) in Section 16, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana. The Conditional Use Permit was originally approved June 14, 2005. Supplemental information has been provided to meet the requirements of a recent Supreme Court decision regarding the Tutvedt gravel pit.

**STAFF REPORT**

Jeff Harris reviewed staff report FCU 08-07 for the board.

**BOARD  
QUESTIONS**

None.

**WEST VALLEY  
LAND USE  
ADVISORY  
COMMITTEE  
UPDATE**

Gary Krueger spoke on behalf of the West Valley Land Use Advisory Committee (WVLUAC). They met on July 29<sup>th</sup> regarding this matter. They received substantial information from the applicant and reviewed the information to the best of their ability. The committee came up with five recommendations which he reviewed for the board. He said the WVLUAC committee did not support the 25-ft depth limit.

**APPLICANT**

Tammi Fisher represented the applicants. She discussed the Supreme Court's decision and pointed out the four main issues: water quality, gravel extraction vs. extraction industry, traffic and roads. She said Jon Smith, Mr. Tuholske, and herself agreed on the language of the order for remand with the approval of Judge Curtis. The issue was then remanded back to the Board of

Adjustment. She summarized the court order for the board. She stated when reviewing the West Valley Neighborhood Plan, the issue of gravel extraction and industrial uses were not related topics. The plan states gravel extraction has been planned for. She asked the board to please comply with the court order. She did not believe a new staff report was in order; these findings replace prior findings-of-fact in the original conditional use permit FCU 05-07. She then introduced the speakers.

Roger Noble, of Applied Water Consulting, has been doing groundwater studies since 1984. He handed out a report to the board and reviewed it at length. He discussed a study done on the thickness of the gravel deposits in the Lost Creek Fan and talked about the aquifer and its presents in the valley. There are two types of aquifer in this area, perch and partisan, or "shallow and deep", and they are not interconnected. They collected four water samples from the shallow aquifer. The well dissolve content was 350 parts-per-million (*ppm*); this shows how mineralized the water is. He said the nitrate concentration analysis ranged from 1.65 ppm to 8.93 ppm, the average being 5.5 ppm. The Department of Environmental Quality (*DEQ*) found there are nitrates as high as 40 ppm in the yellow aquifer (shallow) and the average concentration was 23.2 ppm. The deep aquifer was tested; the total of well dissolve solids was 250 ppm and nitrate concentrations ranged from .8 to 6ppm with an average of 3.6 making it about half as mineralized as the shallow aquifer. He said the deep aquifer is better. He had the board look over the two graphs that showed the relationship between the pit and the wells. A pump test was done on a well right by the pit and will be used for gravel washing operations. The well was pumped at 500 gallons per minute (*gpm*) and had no effect on it. There are obviously two different systems here and no hydrologic connection between the deep and shallow aquifer. He said Schellinger has applied for a Storm Water Pollution Prevention Permit. When pumping from the shallow aquifer, for washing the gravel, the nitrates will actually be diluted. The site has no other wells that would be impacted and has an approved reclamation plan. He said it also has water rights granted on June 23, 2008, permit #30041903. He said all necessary permits are in place. There will be no impact on shallow groundwater operations due to the approval of this application.

Fisher discussed the water quality finding-of-fact. She summarized what Roger Noble stated, and introduced the next speaker.

Josh Smith, of CMG Engineering, is a licensed engineer. He was asked to look at the pavement section of the roadway on Church Drive and West Valley Drive. They tested the road's ability to withstand traffic and to evaluate pavement, base-core, and sub-base thickness and the actual sub-grade itself. First, they did a visual observation of the roadway to look for obvious failure areas. When base-core or sub-base cores have failed, you will see things like pot holes, cracks, and push-ups in the asphalt. None of these problems were observed with the exception of some cracking. However, it appears to be similar to all other roads paved or overlaid at the same time in that area. Due to the visual test, they decided to scatter borings in one mile sections across the roadways to observe underlying gravel thickness. They completed these tests by taking three core samples from Church Drive, one sample from West Valley Drive, and then evaluated the thicknesses comparing them with County standards. They found it was at or above the standards for high traffic volume roads, which is 1,000 vehicles per day. It is substantially less than the amount of traffic those roads are currently getting. In his opinion, he felt the roadway section is adequate for the conditions of traffic that would be added by the gravel pit.

Sagami asked Smith why only one sample was taken from West Valley Drive when three were taken from Church Drive. He wanted to know if one boring was sufficient.

Smith felt the boring sample from West Valley Road didn't have any evidence of failures and no other samples were needed. The main studies were done on Church Drive as it is the main road that would get the majority of gravel pit traffic.

Fisher said Josh Smith's report and testimony underscored finding-of-fact #3. The geo-technical analysis report, done by CMG, confirmed that Church Drive and West Valley Drive are suitable for high traffic vehicle volumes greater than 1,000 vehicles per day. The roads are functional at this time and the introduction of traffic associated with the proposal will not negatively impact these roads. She introduced the next speaker, Bob Avalin.

Bob Avalin said he did the traffic impact study (TIS) for this project. He is a registered professional engineer and has been doing traffic impact studies for the last ten years. He usually looks for the average traffic per year (*annual average daily traffic*). They used data from the Montana Department of Transportation (MDT) to help in their research. They've had several permanent counters all over the state that record traffic every day and give pretty accurate findings. He talked about the data they collected and how it was mostly from public records. When they looked into the safety of these roads, they found the accident rates were either average or lower than most roads in Montana. They did not find any particular crash-sites; there was just a slightly higher accident rating. They thought it might have to do with the curves and hills that exist on the road. The gravel pit staff had already done quite a bit of work to prove the safety of this road. He said the amount of traffic on the road is fairly low and the gravel pit would not add much more.

Klempel asked what the speed limit is on Church Drive.

Avalin thought it was 35 mph.

Sagami thought some of the residents may think the dump trucks would make the road more dangerous.

Avalin said there are no scientific reasons to show there will be any greater risk.

Sagami asked about statistics for dump truck drivers vs. regular drivers.

Avalin said they go through extensive training and have a CDL license.

Fisher said Sagami asked a good question and the next speaker should be able to address it.

Ed Torn, 1205 5<sup>th</sup> Avenue West in Columbia Falls, represented Schellinger Construction. He is in charge of safety for 200+ employees. All drivers have to take extra tests, have regular 8-hour training meetings once per year, and attend mandatory safety meetings once per week. He takes all safety complaint calls and makes sure all drivers comply with safety regulations. Of the 80+ trucks he regulates, the average mileage is over



1,000,000 per year and in his time at Schellinger there has only been 1 accident involving a dump truck. If there were ever a problem he would take it to the appropriate supervisor and the incident would be thoroughly investigated. He feels the drivers are all very well trained, very professional, and hasn't had any complaints.

Sagami said he had heard public comment in past that these drivers are very dangerous.

Torn said he is not going to say it never happens but he does not feel it happens very often. They all have a manual with state and company driving laws which state the consequences of an infraction to either.

Fisher added that the ramification for a person holding a CDL license is far greater than someone without. She went over the third finding-of-fact and stated the court order needs to be followed.

#### **BOARD QUESTIONS**

Sagami asked Jon Smith, Flathead County Attorney, if he disagreed with anything stated by Ms. Fisher.

Smith disagreed with the statement she made about being here for a limited issue; he felt there was a more broad issue.

#### **PUBLIC COMMENT**

David Blasdel, 2250 West Valley Drive, said his property abuts the parcel in question. He talked about growth in the area, gravel pits in West Valley, and commended Schellinger for having courteous drivers. He made a point about having a more centralized location for the gravel pit so trucks don't have to drive so far away. This would reduce road damage, safety issues, and is more cost effective.

Dan Elwell, 1126 McCaffery Road in Bigfork, is a driver for Schellinger and has worked there for 18 years. He said there isn't much turnaround of drivers at Schellinger because there are so many good drivers. He talked about quality of life and the people who work there. He addressed people's complaints about the drivers.

Larry Brasda, lives in the Lakeside area, said he has been a

construction engineer for MDT for many years. He said when people look for gravel they look for quality, quantity, and location. This pit was used previously for an MDT project. He talked about the upcoming bypass project and said this pit meets the three criteria for these jobs.

Dwight Lamb, owner of Montana Cad in Bigfork, said as an independent trucker, he goes in and out of pretty much every pit. He talked about the safety and courtesy of Schellinger pits. He told the board they're dealing with the "best of the best". There is a tremendous amount of growth that's going to take place on the side of the valley near Tutvedt's pit; it's the closest and safest pit to accommodate work in the area.

Ed Torn said there had been no citations since he started working in the pit. He also said if anyone is unhappy where they are, there are plenty of other places to go.

Bill Green, 345 Mountain Meadow Road in West Valley, is opposed to the pit. He talked about whether or not a gravel pit is a suitable use in a residential area. It's not about the availability of gravel or the economy; it's about the residents who have to put up with an operation not conducive to residential living. He said several of the roads in the area aren't safe. He recommended the board deny the application at this time. He wants to see the West Valley Neighborhood plan revisited to determine what's suitable.

Clayton Morigeau, 1185 Lost Creek Drive, said the Tutvedt pit was opened because it was needed and will continue to be needed as long as there is growth in the Valley. He works for Schellinger and said all the drivers keep each other updated on changes in their routes and said accidents happen when people are unaware of their surroundings. He closed by saying Schellinger is a safe outfit to work for.

Chris Douglas (A.K.A. Kip Willis), 445 Lost Creek Lane, said the drivers come out on Farm-to-Market Road, not Church Drive. He talked about roads and safety. He is part of the West Valley Neighborhood group and said the Supreme Court agreed with the 14 items put forth by the group. He went over the Neighborhood Plan.

Jon Erdmann, 145 East Cotton Dr, talked about the safety of the

drivers, the Tutvedt pit, and the necessity of co-existing. He spoke about the workers and the importance of the gravel pit for them and all of Flathead Valley.

Clara LaChapelle, 3580 Farm-to-Market Road, lives about 4/10<sup>th</sup> of a mile from the entrance to the Tutvedt pit. She handed out information to the board and went through the information. She discussed and gave examples of safety issues, wildlife, dust violations, scenic disturbance, water quality, and operating hour violations.

Brett Fisher, 238 11<sup>th</sup> St. E. in Kalispell, does the permitting for Schellinger. He had been asked to do more studies even after two different state departments had already approved it. He spoke about how he felt on three of the four issues of the gravel pit, traffic, roads, and water quality.

Bob Sauer, 985 Rhodes Draw, voiced his opposition to the gravel pit. He feels there is lack of integrity on how the gravel pit was attained and how it's maintained. He talked about the safety issues and referenced the pictures he brought. He also referred to the West Valley Neighborhood Plan and what it states about gravel extraction. He asked the permit to be denied.

Susan Schmidt, 1600 Hodgson Road in Whitefish, supports the Tutvedt pit. She is a sixth generation Flathead Valley person. We need to be able to co-exist with today's changing and growing community.

Gene Dziza, 1048 Church Drive, said he's ok with the operation and trusts the county to condition it appropriately. He thinks West Valley is an appropriate place for gravel pits and said they are needed. He questioned why this gravel pit has been singled out more than others far less appropriate than this one.

Julie Byrons, 1025 Dunmovin Lane, read a letter to the board in opposition to the gravel pit. She mentioned letters sent to George Smith about dust mitigation on county roads and other safety concerns. She pointed out that the Supreme Court upheld the West Valley Plan.

John Bauer, 37 West View, thought reducing the depth of mining

to 25-feet was ridiculous; the DEQ regulates how far they can go. When they notified DEQ they were going to go 35 feet they had no problem. He addressed the complaints and said Schellinger has not received any violations.

Samuel Maves, 119 Cobbler Village Road, said the neighbors have spoken about not wanting a gravel pit in the area. He doesn't think this permit should be issued.

Alice Thramer, 2216 West Valley Drive, said you have to learn how to co-exist.

Bruce Tutvedt, 2335 West Valley Drive, went to the neighbors surrounding the pit for their opinion. He said only 2 of 10 people were against the pit. He handed out a West Valley survey which showed that 78% of the people approved of gravel pits, sand quarries, and extractive industries. The West Valley Land Use Committee (WVLUAC) had reviewed this permit and the findings-of-fact very carefully.

Tom Clark, 3070 Farm-to-Market Road, said he was on the WVLUAC when the original application came to the board. He talked about compromises the committee suggested to Tutvedt. He brought up some of the past meetings to show that Bruce Tutvedt has never been willing to compromise. He asked the board to not give him the permit but suggested several conditions in case they did.

Michael Schwagger, lives in West Valley, thought it was clear that the community doesn't support this application.

Mark Schwagger, lives in West Valley, is a member of the WVLUAC. He said Jeff Harris didn't make a recommendation on this application. He talked about the West Valley Neighborhood Plan and its stand on extractive industry. He discussed the court decisions and asked the board to respectfully deny the application.

Susan Schwagger, lives in West Valley, passed out photos to the board and said the nature of the West Valley Neighborhood Plan is conservation. The plan didn't plan for industrial use. The West Valley area has been deemed residential by the Court. She was concerned with the affect the pit would have on the way of life the people of West Valley have become accustomed to.

Jeff Larsen, 780 Two Mile Dr., is a professional engineer with almost 25 years of experience. He talked about road standards and said no matter where you put a gravel pit you have the same standards. He asked the board to look at this plan and see if it meets the needs of general welfare.

Sagami said he was surprised they only took one core sample from West Valley Drive. He asked if his concern was warranted and why more samples weren't taken.

Larsen said they took four samples and if there were any major inconsistencies they would have taken more. He said more samples were taken from Church Drive because they figured it got more truck traffic. The samples they had taken were very consistent and based on the Astroturf Design Standards they felt comfortable with the outcome.

Hollinger asked if school busses had any trouble making any of the right-hand turns and staying within the lanes.

Larsen said he did not actually measure the turning radius nor did they analyze if busses could make the turns or not.

Gary Krueger, 805 Church Drive, mentioned the issues about traffic and roads. He said infrastructure in that area will be built by this gravel pit.

Charles Lapp, 3230 Columbia Falls Stage Road, said he was on the planning board when they wrote the growth policy. He went over the growth policy and what it stated. He talked about the conditions of the Conditional Use Permit and said it states gravel extraction is a permitted use. It's important to realize we need gravel pits and there's limited places they can be located.

Russ Crowder, 2868 Lower Lost Prairie Rd in Marion, represented American Dream Montana. He said the board is here for a very limited reason; to follow a court order. The board isn't here to add conditions to a permit that's already been granted. The experts have addressed all the major issues. He made a point that there are 2,721 property owners in West Valley and only a very small group has shown up in oppositions of the gravel pit. He asked the board to do their duty and make decisions based on fact.

**STAFF  
REBUTTAL**

Harris mentioned making modifications to the findings based on what the board heard. He agreed with counsel that the scope of what they're looking at is more than the primary issues. He went over those findings and made suggestions on how they should be modified. The board needs to do what the court order states but also look at the impacts of the permit given for this particular conditional use permit.

Jon Smith agreed with Harris, he said there is no point in having public comment on an issue if you cannot go back and discuss all the conditions and the facts to render a final decision.

Sagami asked about the West Valley Neighborhood Plan and if it was correct that it specifically stated gravel extraction was prohibited.

Smith responded no; that's not how he understood it. The plan states there will not be industrial uses that are not part of farm usage. However, there is a separate statement that states gravel extraction is allowed as a conditional use. He stated it is clear that industrial use and gravel extraction in this case, are not the same.

**APPLICANT  
REBUTTAL**

Tammi Fisher agreed with Smith's legal analysis of the West Valley Plan. She said it has not been stated anywhere that further conditions be added. She asked again that the court order be followed exactly. She reiterated that of all the people in the West Valley community, 75% are for the gravel pit and only 25% are against.

Sagami asked about the outside experts and about the one core sample of West Valley Drive.

Fisher thought that the experts had thoroughly explained their evaluation, but asked them to explain again.

Josh Smith said they were mostly looking at Church Drive and West Valley Drive as they would have the most traffic. The West Valley sample was the best of all and they did not feel any more samples were necessary.

Sagami mentioned that someone said the trucks are mostly seen on West Reserve Drive and Farm to Market and wondered why

they didn't test those roads.

Smith said those roads are regulated by the state.

Wagner said he had been out to the area in question and he felt Church Drive and Farm to Market get the most traffic.

Bruce Tutvedt pointed out the route of the gravel pit trucks on Church Drive to the board.

Sagami asked if it was true that most of the traffic is on Farm to Market and not on Church Drive.

Tutvedt stated the trucks pull onto Farm to Market Road then turn onto Church Drive. He said they do have another approach in process.

Smith said they took their samples from some of the worst spots. He said West Valley Drive looked better than Church Drive.

Sagami asked how much it would have cost to do one more sample.

Smith said it would have been another \$1000.

Fisher stated again that Church Drive was the main focus because it appeared to be the most problematic.

## **BOARD DISCUSSION**

The board discussed the road issue.

The board, staff, and the applicant discussed findings-of-fact.

Harris made suggestions to correct some of the findings.

Hollinger asked Jon Smith to clarify the issue of gravel extraction vs. industrial use.

Jon Smith said the plan allows for gravel extraction and in this case is not considered an industrial use.

Harris pointed out this application is regarding the Tutvedt pit; not other gravel pits.

The board and staff further discussed findings-of-fact and

numbered the findings.

Harris reviewed a finding that was not in the staff report.

**FINDING-OF-  
FACT MOTION**

Wagner made a motion seconded by Klempel to approve the findings-of-fact as amended.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Harris stated staff supports conditions number #4, #5, and #6. He suggested some of the language in #6 be changed to state the 40-acre plans of development do apply unless amended by DEQ. The staff was okay with deleting #7 and correcting the language of #8. He said the staff supports #9 and #10 as a condition of DEQ.

Sagami asked if the board could condition a further road study.

Harris said that would be unfair for two reasons: First, is it should not be up to the Planning & Zoning Administrator to make the call; second, to have conditions that you measure and can satisfy. He said if Sagami felt strongly about it, he could ask for another test to be done.

Fisher referred back to the Supreme Court order. She said it never discussed additional conditions. She went over the conditions stating that conditions 2-10 all violate the Supreme Court order.

Hollinger asked Jon Smith if he disagreed with what Fisher had said.

Jon Smith disagreed. He said the conditions are deemed necessary by the planning director. Nothing in the order states that conditions can or cannot be added. He said the West Valley plan does contemplate growth and flexibility to accommodate that. There is no such thing as a bulletproof decision and there will always be some way to challenge it. He said the staff needs to consider the Conditional Use Permit. They need to mitigate what the effect the gravel extraction will have on the neighboring places. He said the plan does not allow for recycling gravel from other places, but it does allow extraction from what is already there.



**MOTION** Hollinger made a motion seconded by Klempel adopt staff report FCU 08-07 as amended.

**ROLL CALL** On a roll call vote the motion passed 3-1 with Sagami dissenting.

**OLD BUSINESS** None.

**NEW BUSINESS** Harris mentioned the seminar conference at the Flathead Lake Lodge on September 22-24, 2008. He said he will send out an e-mail with the exact information.

**ADJOURNMENT** The meeting was adjourned at 11:10 p.m. on a motion by Wagner seconded by Klempel.

The next meeting will be held at 6:00 p.m. on September 2, 2008.

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Scott Hollinger, President

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Heather Soteris, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10/7/08